



**MINUTES  
CITY COUNCIL MEETING  
February 15, 2022**

**CALL TO ORDER**

The meeting was called to order at 6:30 pm.

**Present:** Mayor: Charlie Miner; Council: Jahn Dyvik, Mike Feldmann, and Deirdre Kvale

**Staff Present:** City Administrator: Scott Weske; City Clerk: Jeanette Moeller; Planning Consultants: Jared Johnson and Kim Lindquist, WSB

**Absent:** Council: Gina Joyce (with prior notice)

**PLEDGE OF ALLEGIANCE**

**MAYOR'S COMMENTS – LONG LAKE NEWS, MEETING REVIEW AND UPDATES**

Mayor Miner offered the following comments and updates:

Mayor Miner extended congratulations to Council member Joyce, who is absent from the meeting because she has a new addition to her family.

The EDA met prior to the regular Council meeting to discuss use of the EDA owned parcel at 1905 W Wayzata Boulevard (former BP gas station). The EDA had directed staff to do some research into the feasibility of using this space for a farmer's market, and will be reviewing the matter in more detail at their next meeting on March 29, 2022.

The Orono Lions Club held their annual Snowball Open fundraiser on February 5, 2022. The event was great and raised money that will benefit local charities.

**APPROVE AGENDA**

*A motion was made by Dyvik, seconded by Feldmann, to approve the agenda as presented. Ayes: all.*

**CONSENT AGENDA**

The Consent Agenda consisted of:

- A. Approve Minutes of January 31, 2022 City Council Work Session Meeting
- B. Approve Minutes of January 31, 2022 City Council Meeting
- C. Approve Vendor Claims and Payroll
- D. Adopt Resolution No. 2022-09 Approving the Continuation of the State of Minnesota Joint Powers Agreements for E-Charging and Court Services with the City of Long Lake on Behalf of Its City Attorney

*A motion was made by Feldmann, seconded by Dyvik, to approve the Consent Agenda, as presented. Ayes: all.*

## OPEN CORRESPONDENCE

**Roger Adams, 1130 Underhill Circle** - Mr. Adams read aloud a statement related to water use activities on Long Lake. He stated that he has been a resident of the City for most of his life and noted that he is the third generation to live on lakeshore property that was purchased by his grandfather in 1935. He explained that he had read the minutes from the previous Council meeting and the comments shared by two lakeshore residents during the Open Correspondence portion of the meeting who expressed concern regarding the rowing activity on the lake. He indicated that he would like to offer a counterpoint to their comments. He shared that his long-held personal philosophy includes belief that one of the most important rights they have as American citizens is the right to be left alone. He strongly believes that if what you are doing or intend to do neither injures him or picks his pocket, then it is of little interest to him. The residents' comments suggested that the rowing that occurs on the lake is somehow dangerous or inequitable. He stated that he does not see any difference between that activity and paddleboarding, kayaking, swimming, sailing, or other non-motorized activity. He believes these are all healthy and benign activities that do not actively do any damage to the lakeshore, its ecosystem, or water quality and clarity. He commented that the individuals suggested that the rowers were infringing on boaters' ability to freely enjoy the lake. He read aloud a portion of the MnDNR water safety rules, Chapter 6100.1200, Section D relating to non-motorized watercraft having right-of-way over a motor powered watercraft, except when it is the overtaking watercraft. He clarified this shows that the non-motorized watercraft have the right-of-way in most situations, but the individuals who spoke at the last meeting appear to want to shift the burden from the motorized operations to the operators of the non-motorized watercraft. He mentioned that there is an activity that is occurring on Long Lake that threatens the lake ecosystem, damages the lakeshore, and negatively impacts water quality and clarity by increasing the turbidity of the water by stirring up sediment. He referred to large, powerful boats that are designed with the ability to dramatically increase the boat displacement at the flip of a switch, which are often called 'wakeboarding boats'. He explained the difference between this type of boat and a traditional ski boat and stated that because of the way these boats operate, he understands why there may be some difficulty for them to see and keep track of others on the lake. Their boat wakes do not dissipate because they are still up to two feet high when they slam into his shoreline which increases erosion and again, negatively impacts water quality. He noted that the dissipation of their wakes may work better on a larger body of water, but the same is not true on the relatively small Long Lake. He recalled it has been suggested that he spends thousands of dollars having his shoreline professionally rip-rapped and pointed out that he is unaware of any other activity where those who are subject to damage caused by others are forced to pay in order to mitigate that damage. He observed that professional rip-rap also damages the ecosystem by eliminating habitat for the smallest creatures in the lake. He gave an overview of the propeller drives on the wakeboarding boats and explained that studies have shown that the propeller wash from these boats extends down as far as 16 feet below the surface and if a propeller strikes the lake bottom, it violently stirs up sediment. This disturbance increases the suspended particles in the water column and releases trapped phosphorus which results in algae blooms. He noted that the City has spent quite a bit of the taxpayers money in the past to treat the water with alum with the intent of trapping the phosphorus in the sediment at the bottom of the lake. He expressed concern that the ballast bags from wakeboarding boats are not completely emptied and dried out which could promote the spread of invasive species such as zebra mussels. He reiterated that he believes in a 'live and let live' philosophy and is not proposing banning any legal recreational activity on the lake, as long as it is enjoyed in a way that does not actively damage the lake, the ecosystem, or cause others to incur large costs to mitigate or prevent damage. He stated that he thinks the argument can be made that wakeboarding boats are injuring him and also picking his pocket. He suggested a reasonable compromise could ban ballast boats from operating within 600 feet of any shoreline and allow them to operate only in waters with an average depth of 20 feet which could mitigate the damaging effects from use of these boats. He added that he believed his

proposed restrictions would be reasonable given the potentially severe negative impacts from this activity.

## **BUSINESS ITEMS**

### **Industrial District Zoning Ordinance Amendment Options**

Planning Consultant Johnson gave an overview of three options staff had drafted for amendments to Zoning Ordinance language for the I-1 and I-2 Industrial zoning districts with regard to outside storage, paving and commercial vehicle parking requirements. The three options were presented to the Planning Commission at their meeting last week, and the current proposed amendments included in Council members' meeting packets were based on past conversations with both the City Council and the Planning Commission. The proposed amendments are being presented for discussion and feedback, and the amendments can still be changed. He reported that some of the Industrial districts' property owners had attended the February 8, 2022 Planning Commission meeting, and he summarized the comments they had shared at the meeting. Based on those discussions and the direction of the Planning Commission, staff drafted additional amendment options for Council's consideration. He explained that overall, the property owners in attendance at the Planning Commission meeting indicated that they want to comply with the Zoning Ordinance but are facing a very challenging business environment, and they do not want to be hindered while trying to conduct their business within the City. Johnson reviewed the existing ordinance language versus the proposed options and explained that the Planning Commission was in favor of the least restrictive option possible, which had been labeled as Option #2. Staff, however, would alternatively recommend that there be a maximum percentage implemented for outdoor storage in order to avoid unregulated storage issues. He noted that soil conditions in industrial areas are usually not ideal for plant growth and vegetative screening, so staff is recommending adding language that screening fences be kept in a state of good repair and replaced when damaged. He added that vehicle types need to be differentiated between those commercial vehicles intended to be driven and used specifically to conduct the business; versus vehicles stored as part of the business, such as boats, RVs, and impound lots, which would be outdoor storage. Rather than requiring paving of lots in entirety for all areas used for parking and storage, the Planning Commission discussed requiring a 60-foot paved drive in order to help keep gravel and dirt off of the City streets. Staff is also looking for feedback from the Council on whether they feel businesses should be allowed to store vehicles or items on site that are not related to the primary business. He stated that staff feels a regular compliance check as suggested by the property owners may be a good step, but it wouldn't ensure that properties will remain in compliance. Primary storage is not allowed in the Industrial districts, and allowing property owners to lease storage space for off-site storage could lead to storage becoming the primary use of the site; therefore, staff believes the location requirement is crucial.

Planning Commission Chair Adams explained that the consensus of the Planning Commission was that the businesses the City has in town are needed and necessary businesses. Putting a 50% limit on a million dollar valued lot may severely negatively impact a business owner's ability to operate their business properly. He stated that under the current ordinance language, virtually nobody in the industrial area can comply unless they are operating all of their business inside of a building, which is why the Commission recommended the least restrictive option. He reflected that the primary problem seems to be people that drive by and say, 'I don't like the look of that', so screening seems appropriate. The business owners he has spoken with have stated that they would happily put up screening. He asked the Council to remember that some of these businesses have been operating in town for 50 years and pay a tremendous amount of property taxes with very few complaints. He noted that for the City to come in and say, 'It is okay for you to operate your business here, but we are going to put a bunch of restrictions on it that will make it hard for you to be profitable' did not seem like the right thing to do in the Planning Commission's view.

Council member Dyvik pointed out that staff had recommended Option #1 though the Planning Commission had recommended a modified Option #2. He asked if there had been any discussion about boat storage, because that is an example of where many feel like a particular property owner has overreached.

Adams confirmed that they talked quite a bit about storage and asked how boat storage would be considered an overreach.

Council member Dyvik indicated observations of overreach were based on aerial imagery of the boat storage business and the appearance that the boats were extending onto other properties; as well as from what they had indicated to City Administrator Weske about what their plans were for the site.

Adams was unaware of a situation where a boat storage business was storing boats on someone else's property.

City Clerk Moeller confirmed the business being discussed is storing boats on another property across the street from theirs.

Adams stated he would agree that issue needs to be addressed, but he questioned what the City is trying to achieve by telling someone that they can store boats in an area, but you have to leave half of it open.

City Administrator Weske recalled that one of the biggest issues the City had was that the business had blocked traffic on Daniels Street for five to 10 minutes at a time as they moved boats around. Additionally, because they had no further room on their property, they had been parking vehicles, boats and trailers on street where parking is prohibited. The Police would conduct enforcement, and in order to be compliant with parking restrictions, the business would just park the truck on the side of the road and keep it running 'to be moved' at some point. This one business was interfering with other businesses doing their business because they have no room to maneuver and have obstructed the road while doing what they needed to do for their business.

Adams added that he would not disagree that there should be some restrictions in general, such as stipulating that outdoor storage has to be at least behind their front setback which gives 50 feet in the front of the lot to move things around.

Moeller commented that to put things into perspective for the business being referred to, the business owner was advised when they were interested in the lot, prior to its purchase, of what the outdoor storage requirements were. They subsequently moved in and chose to operate their business very differently than permitted and then worked to make a case for a non-conforming use. The current area on the lot that is screened is about 25% of the total lot area, which means going up to 50% would allow them to store more boats with more space. She reviewed some of the difficulties with sight lines with the parked boats located adjacent to streets on the corner lot. She indicated that staff would like to move forward and bring an ordinance to a public hearing in March. She commented that she thinks it is great that the business owners were supportive of the 60-foot paving requirement and noted that staff needs direction on the outdoor storage percentage allowed.

Council member Kvale asked what percentage is being used for the business storing the boats. She asked if the ordinance were changed to 50% how that would affect their business.

Adams asked if the City's intent was to place restrictions on all the businesses in the Industrial districts because of the transgressions of one business.

Moeller emphasized that the ordinance amendments being proposed are not to address this one business, and the intent is to address the districts as a whole. She stated that the one business that has been an issue was not the reason that staff raised the matter before Council. She explained that it was brought up because staff realized there was an unfair inconsistency within the zoning code with regard to minimum rear yard setbacks versus outdoor storage being permitted only behind buildings. Moeller clarified that staff is hoping to accomplish adopting parameters that are more reasonable for the districts as a whole so that as these properties turn over, there is the opportunity to achieve compliance.

Council member Feldmann asked what the rationale was behind the current code that requires paving of all storage.

Moeller responded that she could not speak to that original intent because it may have been adopted as far back as 1979, but she confirmed that requirement has been in place since she joined the City.

Mayor Miner inquired about paving and how it would work with a business like the bus garage where there is gravel along two different roadways. He asked if they would have to pave their entire lot.

Moeller clarified that they would have to pave within 60 feet of the right-of-way. She noted that there will end up being some non-conforming uses or properties that do not comply in the Industrial districts, but staff feels the best practice would be to make the best decision for the districts as a whole. She stated that she understands the difficulty of doing so when everyone has a particular example in their heads, but overall, the thought should be how can the City help everyone else who might want to comply. She added that regardless of what is decided, the language changes will be an improvement.

Council member Dyvik commented that he believes everyone is inclined to agree to relax the restrictions, though he asked what the City may be able to do about enforcement.

Adams indicated that the question of enforcement was a big one for the property owners and they talked about the City just sending letter after letter only when there was a complaint. He pointed out that if a violation is egregious, then the City can decide to spend taxpayer resources on City Attorney Thames to pursue them proactively but he added that this is something the City has been reluctant to do. He noted that this is why businesses have gotten away with some of these actions for so long. He stated that limiting outdoor storage to 50% of the lot would make it hard for someone like a landscape company to operate. He mentioned that perhaps 'no limit' is not the correct number, but suggested that perhaps 75% is the correct amount.

Council member Dyvik asked if the percentage, in the case of a landscaper, included material or if it just meant vehicles.

Adams replied that it would include outdoor storage of materials, vehicles, and anything.

Weske added that the question of whether on site storage should be pertinent to the business and not open to everything remains.

Kim Lindquist, WSB, noted that almost every city requires some limit in relation to setbacks and building location.

Council member Dyvik commented that he was sympathetic to those businesses that have been in the City for a long time; however, what he doesn't like is when a new business comes in and says that they can just roll over the City because requirements are not enforced.

Moeller suggested that perhaps a next step may be to look at the violations and penalties within the Zoning Code and review that section. She stated that staff could consult with the City Attorney to learn more about what authority the City would have for some sort of administrative penalty fine schedule similar to what the City has for liquor and tobacco violations.

Lindquist noted that the City could also issue criminal citations.

The Council discussed the proposed amendments and suggested some compromises to the recommended options. They discussed the recommendation from the Planning Commission for opaque versus solid fencing, though were not in favor of allowing the slatted chain link fencing.

Adams reminded the Council that the area under review is an industrial park and is not a residential district, nor is it the commercial and small business district.

Lindquist stated that she would suggest the City use the front plane of the building as the line for the start of a screened storage area. She noted that if they allow storage in front of the building, there may be a substantial fence in front of the building which she does not think is what the City wants. She recognized that the area is industrial, but generally it is desirable for the front of a building to be more welcoming.

The Council discussed what effect the location of the building on lots would have in relation to their ability to have outside storage.

Adams noted that conditions in the industrial area are 'out of control' right now and he feels that the City would gain more compliance if they loosened the restrictions and allowed the individuals to operate their businesses.

The Council discussed permitted uses within the Industrial districts and the possible need for adding language regarding principal uses.

Adams reflected that Long Lake is not Maple Grove, who had a blank slate and could plan out what they would and would not allow. He indicated that he is not in favor of making it difficult for businesses to thrive in the community and noted that many of them buy their fuel in the City, purchase supplies from the local hardware store, and companies like the landscaping company will probably hire 25 to 30 high school kids over the summer.

Council member Dyvik stated that he believed Council was in agreement about allowing storage on the sides of the building, at a minimum; and that Council is also in agreement that the number should be increased from 25%, but is not clear yet on what percentage it should become.

Council member Kvale questioned whether the Council felt that outside storage should have to be associated with the business.

Council member Dyvik voiced support for that restriction, and Council members agreed.

Adams pointed out that the restriction would reduce some of the potential for them leasing 10% of their lot for other people to store stuff on.

The Council discussed variance criteria for buildings placed further back on the lots.

Moeller stated that her understanding of the Council discussion was that rather than applying for a variance from the criteria, the Council was suggesting that they try to establish Code language that would state the criteria for which they could do something different without requiring a variance.

Lindquist recommended the Council take a break from discussion tonight, and allow staff to provide an analysis of the 41 properties in the district to review building locations versus setbacks in order to determine how big of a problem may be there.

Moeller mentioned that the public hearing for the ordinance amendments has already been noticed for March 8, 2022, so this would have to be revisited at the March 1, 2022 Council meeting.

Council member Dyvik agreed with an earlier comment noting once a step is taken it is hard to go back, and he would rather take an incremental step so the City does not make a big mistake before it becomes too late. He stated that if they move forward with an incremental step, they can take another look at it in a year and address it again.

Lindquist stated that she thinks the Council is in the ballpark and suggested that they discuss this at the March 1, 2022 Council meeting where staff can bring back a bit more information.

Moeller discussed the challenges staff may have with having this turned around in time for the public hearing on March 8, 2022. She noted that if the Council was not confident that they will be able to arrive at a clear direction for the amendment at their March 1 meeting, she would suggest that they consider cancelling the public hearing that has been noticed for March 8, 2022.

The Council discussed the items that there was consensus about based on the recommendations from the Planning Commission, and felt the public hearing would still be able to be held on March 8, 2022.

## **OTHER BUSINESS**

**Utility Agreement Subcommittee Meeting** - Mayor Miner recalled that the City had appointed a subcommittee to meet with the City of Orono regarding a contract for water and sewer connections. He stated that the first meeting was held today and overall he felt it was a positive meeting and noted that they seemed amenable to what the City was looking for.

**Meeting Schedule Change** - Moeller advised that there will be a City Council work session on March 15, 2022 in lieu of an EDA meeting.

## **ADJOURN**

*Hearing no objection, Mayor Miner adjourned the meeting by general consent at 7:52 pm.*

Respectfully submitted,

Scott Weske  
City Administrator